

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARTIN RACEY, KEVIN MCDONALD, GARY  
WILLIAMS and ALEX ABREU, Individually and  
on Behalf of All Others Similarly Situated,

Case No.: 15 CV 8228 (KPF)

Plaintiffs,

-against-

**DECLARATION OF  
JAMES ATKINSON**

JAY-JAY CABARET INC. d/b/a FLASH  
DANCERS, AAM HOLDING CORP. d/b/a  
PRIVATE EYES, 59 MURRAY ENTERPRISES,  
INC. d/b/a NEW YORK DOLLS, BARRY I.  
LIPSITZ and BARRY LIPSITZ, JR., Jointly and  
Severally,

Defendants.

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I, James Atkinson, pursuant to 28 U.S.C. § 1746, declare upon personal knowledge and under penalty of perjury that the following is true and correct:

1. I have worked at Flashdancers Gentlemen's Club ("Flashdancers" or the "Club") for ten (10) years and two (2) months. I have held the title of floor man for the entire time of my employment with the Club.

2. I am competent in all respects to make this affidavit and am personally familiar with the facts stated herein, all of which are true and correct.

**Floor Man**

3. Being a floor man involves a variety of tasks and skills. Floor men are basically hosts who greet clients, assist with customer seating by assigning the customer to a table and directing wait staff and general customer service. Security is a secondary function performed by floor men. Primarily, floor men make sure that there is a good atmosphere at the Club and everything on the floor of the Club runs smoothly.

**Club Hours**

4. I was hired to work at Flashdancers by Nunzio Bonviso.

5. Nunzio explained to me at the time that I was hired that the night shift at the Club is from 8pm until whenever business is concluded at the Club.

6. A shift for floor men would not start at 7:30 p.m. because there would already be a floor man on premises from the early or “day” shift. The day shift and the night shift do not overlap.

7. I always understood that the night shift was not a set number of hours. That would not make sense because the Club did not close to the public generally until 4:00 a.m. and there was still business to be conducted at the Club as part of the closing processes and a part of the requirement of the job was that I stay until that business was concluded.

8. I generally work Monday through Friday.

9. Business is concluded and I leave the Club by 4:30 a.m. about two (2) or three (3) days out of the week.

10. I leave the Club by 5:00 a.m. the other two (2) days per week that I work.

11. It is very rare for business to continue at the Club past 5:00 a.m.

12. In all the years I have worked at Flashdancers I do not remember ever being at the Club as late as 6:00 a.m.

**Break**

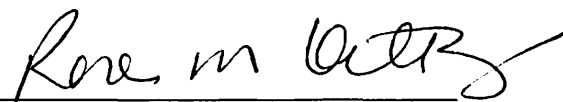
13. I take a meal break when I work and I am not required to or expected to work during that break. I am aware that the other floor men also take at least one break. I know that other floor men are taking their break because we need to coordinate our shifts to make sure

there is coverage when any of the floor men are taking their break. This happens throughout the night when the other floor men are taking their breaks. This has been true over the entire time that I have worked at Flashdancers.

Dated: April 1, 2016

  
JAMES ATKINSON

Subscribed and sworn to before me on this 1 day of April, 2016.

  
Notary Public, in and for  
the State of New York

